

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3

4 DARRICK D. STERLING, SPIRIT AND
SELF MINISTRIES, SYLVESTER
5 BRADFORD, and YVONNE TIJERINO,
Plaintiffs,

No. C 14-00827 CW
ORDER ON MOTION
FOR THE REMOVAL OF
STATE COURT ACTION
(Docket No. 20)

6 v.

7 DEUTSCH BANK AMERICAS, MARILYN Y.
RODRIQUEZ, SPRE, INC., GMAC
8 MORTGAGE, CYPREXX CORPORATION,
WOLF FIRM, KAYO MANSON-TOMKIN,
9 ALAMEDA COUNTY SHERIFF, and
ALAMEDA COUNTY COUNSEL,

10 Defendants.

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13 On March 13, 2014, Plaintiffs Darrick D. Sterling and
14 Sylvester Bradford filed a motion for removal of Deutsche Bank
15 Trust Company Americas v. Bradford et al., case number 11-594238,
16 filed in Alameda superior court on September 8, 2011. Under 28
17 U.S.C. § 1446, a defendant in a state court civil action may
18 remove the action to federal court within thirty days after the
19 service of summons. However, Plaintiffs identify no authority
20 that permits them to file a motion to combine an unrelated state
21 court action, where at least one Plaintiff is a defendant, with
22 this federal case, where Plaintiffs have asserted several
23 affirmative claims under federal law. Plaintiffs' motion is
24 procedurally improper and therefore must be denied. If a
25 plaintiff wishes to remove a civil state court action to which he
26 is a defendant, he must timely file a notice of removal according
27 to the procedures of 28 U.S.C. § 1446, which would initiate a
28 separate federal court action. Removal of a state court case

1 filed in 2011, however, is unlikely to be timely. See 28 U.S.C.
2 § 1446.

3 In any event, Plaintiffs do not appear to have any legal
4 basis for removing the above-referenced state court action.
5 According to the documents filed by Plaintiffs, the state court
6 action is an unlawful detainer action. Because the "federal
7 question must appear on the face of the complaint," and unlawful
8 detainer is a matter of state law, this Court is unlikely to have
9 jurisdiction to hear the state court action. Caterpillar Inc. v.
10 Williams, 482 U.S. 386, 399 (1987); Bank of Am., N.A. v. Arriola,
11 2012 WL 1996954, *2-3 (N.D. Cal.). Additionally, Bradford has
12 made at least five attempts to remove this state court action.
13 Each time the case was remanded, and the latest attempt was made
14 in direct contravention of the court's warning that any further
15 attempt would be "legally frivolous" and might "expose Bradford to
16 contempt of court penalties." See Deutsche Bank Trust Company
17 Americas as Trustee v. Bradford, Case No. 13-3564 RS, Docket Nos.
18 1, 8. Accordingly, Plaintiffs are advised to cease their attempts
19 to remove this state court action.

20 IT IS SO ORDERED.

21 Dated: 5/23/2014


22 CLAUDIA WILKEN
23 United States District Judge
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